

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

DONALD RAYMOND TURLEY,

Plaintiff,

v.

CIVIL ACTION NO. 2:14-cv-17373

CAROLYN W. COLVIN,

Acting Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

On June 2, 2014, the plaintiff, Donald Turley, instituted this action seeking judicial review of the Commissioner's final decision pursuant to 42 U.S.C.A. § 405(g). The sole issue before the court is whether the decision denying Turley's claim for income and benefits is supported by substantial evidence. See 45 U.S.C.A. § 405(g).

By standing order this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge. On August 31, 2015, the magistrate judge filed his Proposed Findings and Recommendation ("PF&R"). On September 14, 2015, Turley filed his objections to the magistrate judge's PF&R.

In the PF&R, the magistrate judge recommends that the court deny Turley's motion for judgment on the pleadings, grant the defendant's motion for judgment on the pleadings, affirm the final decision of the Commissioner, and dismiss this matter from the court's docket. Turley has two objections. First, he objects to the magistrate judge's finding that the ALJ did not err in failing to assign weight to the opinion of a consultative psychological examiner who found evidence of some memory deficits and mood problems after examining Turley. Second, Turley objects to the magistrate judge's finding that the ALJ's failure to perform a function by function analysis in determining Turley's residual functioning capacity was harmless error.

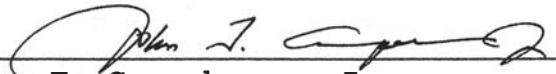
Turley's objections follow, almost verbatim, the arguments made in his motion for judgment on the pleadings. These matters have been extensively and thoroughly explored in the briefings and by the magistrate judge, whose conclusions have a sound legal basis and substantial evidentiary support. Thus, having considered the objections and having reviewed the matter de novo, and having found that the decision denying Turley's claim for income and benefits is supported by substantial evidence, see 45 U.S.C.A. § 405(g), the court adopts and incorporates herein the magistrate judge's proposed findings

and recommendation. For the reasons stated, it is ORDERED as follows:

1. That the PF&R be, and it hereby is, adopted and incorporated herein;
2. That the Commissioner's final decision be, and it hereby is, affirmed;
3. That judgment be, and it hereby is, granted in favor of the Commissioner; and,
4. That this civil action be, and it hereby is, dismissed and stricken from the docket.

The Clerk is directed to forward copies of this written opinion and order to all counsel of record and the United States Magistrate Judge.

DATED: September 21, 2015



John T. Copenhaver, Jr.
United States District Judge